

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INVESTIGATION INTO ALLEGED UNAUTHORIZED)	
RATES AND SERVICES OF AMERICALL SYSTEMS)	
OF LOUISVILLE, INC.)	CASE NO.
)	90-026
)	
_____)	
)	
ALLEGED VIOLATION OF KRS CHAPTER 278)	

O R D E R

On February 9, 1990, the Commission issued an Order establishing an investigation into alleged unauthorized rates and charges of AmeriCall Systems of Louisville, Inc. ("AmeriCall"). The Commission directed Commission Staff to perform an audit of rates and conditions for service offered by AmeriCall and any affiliate. On February 14, 1990, AmeriCall filed a motion to vacate the February 9, 1990 Order. This motion is pending Commission decision.

Commission Staff has contacted AmeriCall and stated its intent to perform an audit of AmeriCall's rates and conditions of service. In a letter from AmeriCall received April 3, 1990, AmeriCall expressed several concerns about the Staff audit. Citing the Electronic Communications Privacy Act of 1986, 18 U.S.C.A. § 2703(c)(1)(B), AmeriCall asserts that it will disclose records pertaining to subscribers to a governmental entity only when the entity uses an administrative subpoena. The Commission is of the opinion that 18 U.S.C.A. § 2703 does not apply to a

governmental entity such as the Commission for the disclosure of records or other information having to do with the agency's regulatory authority over the provider of electronic communication service, but rather, KRS 278.230 controls the performance of on-premises audits.

KRS 278.230(1) and (2) provide that:

(1) The commissioners and the officers and employees of the commission may, during all reasonable hours, enter upon the premises of any utility subject to its jurisdiction for the purpose of examining any books or records or for making any examination or test, or for exercising any power provided for in this chapter, and may set up and use on such premises apparatus and appliances necessary for any such examination or test. The utility shall have the right to be represented at the making of any such examination, test or inspection.

(2) The books, accounts, papers and records of the utility shall be available to the commission for inspection and examination. If the books, accounts, papers and records are not within the state, the commission may, by notice and order, require their production or the production of verified copies at such time and place as it designates, any expense incurred to be borne by the utility so ordered.

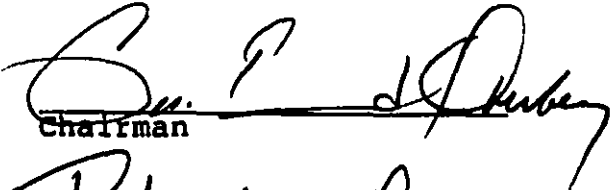
The audit of AmeriCall's rates and conditions of service will be conducted pursuant to this statute.

AmeriCall contends that it has received no written notice or instruction concerning the audit. However, the Commission's February 9, 1990 Order specifically directed Staff to perform such an audit. Staff has, through multiple phone calls, sought to advise AmeriCall of possible dates for the audit and of information needed in the audit.

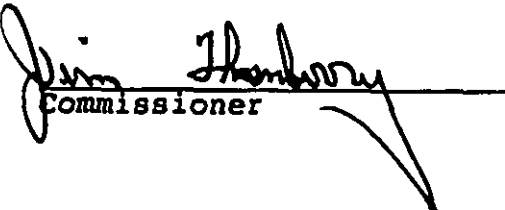
The Commission, having reviewed AmeriCall's pending motion and the letter received April 3, 1990 and having been otherwise sufficiently advised, HEREBY ORDERS that Staff conduct an audit of AmeriCall's and any affiliate's rates and conditions of service and that AmeriCall make the billing records, contracts, and other information available for an on-premises Staff audit as required by KRS 278.230.

Done at Frankfort, Kentucky, this 3rd day of April, 1990.


PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director